



**Approved  
SCOTTSDALE CITY COUNCIL  
JOINT TASK FORCE ON THE ARTS  
PUBLIC MEETING  
WEDNESDAY, MAY 24, 2006  
SCOTTSDALE CULTURAL COUNCIL ANNEX CONFERENCE ROOM  
MERCADO VERDE BUILDING, 7373 SCOTTSDALE MALL, SUITE 18  
SCOTTSDALE, AZ 85251**

**PRESENT:** Wayne Ecton, Councilman  
Betty Drake, Councilwoman  
Ron McCullagh, Vice Mayor  
Louise Roman, Scottsdale Cultural Council Board  
Dick Hayslip, Scottsdale Cultural Council Board  
Gail Bradley, Scottsdale Cultural Council Board

**STAFF:** Frank Jacobson  
Michelle Korf  
Donna Bronski  
Valerie Vadala Homer  
Margaret Bruning  
Stella Fusaro, City Auditor's Department  
Bob Wood, Planning Department  
John Lusardi, Long Range Planning Director

**CALL TO ORDER/ROLL CALL**

The meeting of the Joint Task Force on the Arts was called to order by Councilman Ecton at 11:36 p.m. All members of the Task Force were present.

**GENERAL BUSINESS**

1. **Approval of Minutes of May 10, 2006 meeting**

**COUNCILWOMAN DRAKE MADE A MOTION TO APPROVE THE MINUTES OF THE MAY 10, 2006 MEETING. CO-CHAIRMAN HAYSLIP SECONDED THE MOTION, WHICH CARRIED BY A UNANIMOUS VOTE OF SIX (6) TO ZERO (0).**

## **2. Sculpture Pad Ordinance 2408**

Ms. Korf reviewed the history of the Sculpture Pad Ordinance and referred Task Force members to the overview in their packet. Ms. Homer added that the program originated out of the Best of Scottsdale exhibitions. She described some of the challenges the program encountered. A discussion ensued recalling the beginnings of the program.

Ms. Korf identified options for consideration by the Task Force:

- Reconstitute the Ordinance in such a way that it allows for the public art program to site public, not privately owned art on the concrete pads.
- Repeal the Ordinance and reconstitute it as part of the Public Art Program's work plan for temporary art that City Council would review on an annual basis.

Ms. Korf noted the that purpose of bringing this item to the Task Force is to get a sense of Task Force members feelings about the disposition of this Ordinance.

Ms. Homer acknowledged that staff and the Cultural Council feel that a sculpture pad ordinance is not required. Mr. Jacobson explained that the program was started with the best of intentions but did not work out for a number of reasons discussed earlier and was discontinued in 1992.

Councilman Ecton asked whether the sculpture pads are still in place. Ms. Stella Fusaro of the City Auditor's Department reported locating ten out of the original 17 pads. None of the pads currently have any sculpture on them. Ms. Homer noted that a staff member will take photos of the existing pads in order to make a record.

Councilman Ecton opined that the Task Force should decide whether to put in new pads for public art.

Co-Chairman Hayslip wondered whether the gallery owners would find the program acceptable if solutions to the historic problems were found.

Councilwoman Drake opined that repealing the Ordinance would make sense. She likes the idea of temporary installations in Downtown and would like to explore alternative ways to accomplish this. Programs in Tucson and Phoenix make use of empty storefront spaces to display artwork. Councilwoman Drake wondered whether there are other programs that involve sculpture.

Ms. Homer stated that the Cultural Council will look at this in the context of the larger temporary program.

Councilman Ecton posed Phil Vickers' idea of putting public art on all the streets by allowing the artists to provide their work at no cost to the City in return for free publicity. Ms. Roman remarked that perhaps the advertising component could be tied to wayfinding. Councilwoman Drake recalled that James Turrell had a wayfinding proposal with various runway lights in the streets for the Arts District in Tucson. Vice Mayor McCullagh expressed favor for the idea of giving artists the opportunity to display their work and asked why creating an ordinance had caused difficulties. Ms. Homer replied that the City can mandate a program without creating an ordinance.

Mr. Jacobson recalled that initially there had been legal questions regarding placing a sculpture pad in public right-of-way. By creating an ordinance, the City had solved some of those issues.

Vice Mayor McCullagh noted that the material in the packet explains why the program had not worked but did not really address whether or not there should be an ordinance.

Mr. Jacobson opined that the Sculpture Pad Ordinance may have been appropriate at the time it was enacted but that ideas could be incorporated into the work plan.

Co-Chairman Hayslip suggested that this could be a venue to showcase the work of local artists, and strengthen the relationship between the Public Art Program and the gallery community.

Ms. Homer commented that the Cultural Council has not recently communicated with the galleries to determine whether they would be interested in participating. She opined that the program should be considered in terms of the cost benefit and return on staff time. If Task Force members wish to explore this option, staff could do an assessment to see whether the galleries have any interest.

In the ensuing discussion, Councilwoman Drake suggested that perhaps a partnership could be developed with individual galleries who would recommend an emerging artist whose work would be displayed on the pad near their gallery.

Ms. Roman commented that the Ordinance as it stands does not seem to serve current or future needs. Councilman Ecton agreed, elaborating that he did not see how a workable ordinance could be drafted and opined that the Sculpture Pad Ordinance should be repealed.

**COUNCILWOMAN DRAKE MADE A MOTION TO RECOMMEND THAT ORDINANCE 2408 BE RESCINDED AND THAT THE TASK FORCE ATTEMPT TO FIND AN ALTERNATIVE WAY OF PROVIDING TEMPORARY ART INSTALLATIONS AND ENCOURAGING EMERGING ARTISTS. MS. ROMAN SECONDED THE MOTION, WHICH CARRIED BY A UNANIMOUS VOTE OF SIX (6) TO ZERO (0).**

Ms. Donna Bronski of the City Attorney's Office noted that City staff will place this motion on a future City Council agenda.

### **3. Art in Private Development (AIPD) Ordinance 2018**

Ms. Homer provided an overview of the Art in Private Development Ordinance, which has been in place for over 15 years. The Ordinance is limited to planned block developments (PBD) in downtown and represents a partnership between the City and the development community. Ms. Korf provided an updated map showing the PBD in downtown Scottsdale.

Highlights of the presentation included accomplishments of the program, a list of active projects, brief budget details, and current Ordinance limitations. Residential projects are exempted from the ordinance. The artwork at the Waterfront site was designated via development agreement. The Cultural Council thinks that the Ordinance should be explored in broader terms.

Mr. Jacobson asked if the art was not a part of the development agreement at the Waterfront, would that developer have been required to do percent for art for the retail mixed use. Ms. Korf explained that if the developer needed to obtain PBD zoning, only the retail portion would have been subject to the Ordinance. A discussion on how the Ordinance relates to the zoning process ensued.

Ms. Homer identified the following limitations to the current Ordinance:

- It provides limited incentives to the developer. An extensive study of other cities' AIPD ordinances shows that there are many incentives that could be offered to developers.
- The SPA Board's review authority is weak; it makes recommendations to the Development Review Board and verifies that the developer has spent the correct sum, but has no input on the quality of the artwork per se.

The Task Force reviewed the Ordinance. Ms. Homer noted that the authority of the SPA Board and the DRB needs to be better defined. In some instances, the projects are more design-oriented than actual works of art. Also, compliance is tied to the issuance of the certificate of occupancy at the very end of the project. Ms. Homer explained that this is problematic because if the provision of artwork was tied to the start of the project there would be much better compliance and follow-through.

The current Ordinance contains no provisions for maintenance and care of the artwork. To date there have not been problems, but this might change in the future. Also, there is no provision for staff compensation for assisting developers. The Waterfront project is largely successful because of the work Ms. Homer and Ms. Bruning did with the developer. The City Auditor raised the question: Is it appropriate for publicly-funded staff to provide those services to the developer? A study reveals that many cities are now charging developers for staff services.

A change in the development, such as new ownership, could result in the removal of artwork. If the artwork is site-specific, its removal creates a problem. Ms. Homer cited removal of artwork at one development without the artist or the City being notified or involved until after the fact. Developers are slow to replace artwork that has been removed. Sometimes work is improperly conserved or lighted.

Ms. Homer concluded by mentioning ideas for the Task Force to consider for AIPD revision:

- The geographic threshold: Go beyond downtown
- The zoning type: Go beyond planned block development zoning
- Is 60,000 square feet the appropriate threshold?
- Limit the exemptions that currently are allowed by the Ordinance
- Consider including incentives

Ms. Homer stated that many cities now allow developers a discount if they choose to make a monetary contribution an in lieu fund for artwork. This gives the City more control over the quality of the artwork.

Other aspects that could be revised include:

- Stronger SPA Board authority and art review process to ensure quality projects.
- Incentives for use of desired artists
- Incentives for gifting of artwork to the City's public art collection
- Consider charging fees for staff services, which could be used to support overall staffing of the program.

Negotiations are underway with the developer of the Waterfront, who is contracting with the Scottsdale Public Art program to oversee the installation of the Lipski sculpture. The developer is considering donating the Lipski sculpture to the City. The advantage of this process is that the City can control the quality of the artwork and ensure that the installation is done correctly. Additionally, the Scottsdale Public Art program is taking steps to ensure that the piece cannot be removed by the developer in the future.

There is a need to improve the City and public art project review and coordination process with the DRB. Clear guidelines, which are being drafted, must be provided and published for the developer to follow. The roles of the SPA Board and the DRB must be better defined.

Co-Chairman Hayslip queried why the program is limited to the downtown area and opined that the City may be missing opportunities. Ms. Korf concurred, but noted that the Ordinance was created in 1988 and reflected the City's needs at that time. Development in north Scottsdale was not foreseen. Ms. Homer added that Scottsdale was one of the first cities to adopt a private Percent for Art Ordinance.

Ms. Donna Bronski advised that because there are potential legal issues, the policy needs to be solidified before recommending a change to the Ordinance. Ms. Bronski posed the following questions for consideration: Why does this program need to be expanded? What are the benefits to the public?

Vice Mayor McCullagh asked whether there are implications if the policy required developers to contribute funds to the City rather than providing their own artwork. He suggested that the primary objective could be to contribute to the City fund and under certain circumstances developers could qualify to provide their own art. Discussion ensued regarding the possibility of assessing an impact fee. Ms. Bronski mentioned the recently failed proposed legislation regarding exempting art from impact fees.

Ms. Roman asked if any outstanding programs were identified in the research that could serve as models for Scottsdale. Ms. Homer committed to provide additional research documentation to the Task Force.

Mr. John Lusardi, Long Range Planning Director, noted that the source of the money and where it is going must be addressed. To establish a citywide fee, a citywide nexus would have to be established. There should be some physical connection between the art and the building.

Ms. Roman suggested that developers could be provided with a list of approved artists to use in projects. Ms. Homer noted that some programs have a list and provide an incentive to use the artists from the list.

Ms. Homer cited that the question of how to fund temporary art also arises, noting that performance and event-based art might be more popular as tourist destinations.

Councilman Ecton wondered whether the discussion was considering this question from the right perspective, opining that the public is expecting the Task Force to take a comprehensive look at how cultural activities are put together and measured in the City. The Task Force should be looking at the whole cultural package, rather than just one piece at a time. Perhaps a sales tax on construction materials to fund better cultural facilities, public art and art education should be considered.

Vice Mayor McCullagh asked whether Scottsdale is going to take the next step to continue to be the cultural arts leader in the Valley? If so, how will the City finance this?

Councilwoman Drake remarked that Councilman Ecton's sales tax suggestion would spread the obligation to all citizens. However, the private Percent for Art is a good parallel track, because it is a win-win situation. Once developers get on board they become very enthusiastic.

Councilman Ecton commented that he sees a problem with that approach. From his contact with the public, people want citywide public art. This is why he suggests considering some other funding mechanism. Not everybody benefits from the Percent for Art Program, which is tied to specific sites.

Councilwoman Drake acknowledged that both the private and public Percent for Art programs are reasonable tracks. She opined that there is a need for grassroots neighborhood integration of art. The sales tax approach might generate enough funding to begin such a program. Community-based art builds a future constituency for the arts and educates the public. That is where cultural change can be started.

Ms. Bradley commented that she has seen projects that help create a community. Councilwoman Drake cited the mural at the Senior Center as a good example of this. Ms. Bradley asked whether the Task Force should have a broader statement about Scottsdale's commitment to the arts and then seek funding, as opposed to looking piecemeal at existing situations and trying to make adjustments.

Councilman Ecton summarized that when the Task Force considers what they want to do, more funds will be needed to accomplish this. Much of the criticism regarding public art is because it is close to leading edge. Public art in neighborhoods would enable accommodation of the tastes and desires of the public.

Councilwoman Drake noted that it would be interesting to see if the voters of Scottsdale would approve a sales tax increase or a bond proposition. Describing her work on the Los Angeles public art program, Councilwoman Drake noted that developers had the option of placing money into a trust fund, putting art on site or contributing to cultural facilities.

Co-Chairman Hayslip noted that this is a great discussion in terms of the larger vision. Scottsdale has a unique identity associated with the arts and a better job of utilizing the arts to strengthen communities and reach into neighborhoods could be done. He opined that this initiative will take a greater effort and he hopes that this discussion will remain

on the Task Force agenda. A discussion on the visibility and public acceptance of the public art program ensued. Ms. Homer noted that the hallmark of successful public art is that it becomes part of the fabric of the community.

Councilwoman Drake suggested that the Task Force may also wish to consider offering developers the option of a contribution to performing facilities or other cultural programs.

Co-Chairman Hayslip suggested that the Task Force revise the scope of coverage of the existing Ordinance, addressing the limitations mentioned by Ms. Homer in her presentation, and try to clarify the roles and responsibilities of the SPA Board vis-a-vis the DRB and the other agencies. Ms. Korf replied this is an excellent point and suggested that it be a topic for the next meeting.

Ms. Korf proposed that staff include an overview of Task Force member suggestions relative to redrafting of the new Ordinance be included in the June 20th meeting packet. Staff will use this to begin drafting the new Ordinance over the summer and present it to the Task Force in September. A discussion on process ensued. Ms. Homer welcomed input from Task Force members. At Councilwoman Drake's suggestion, Ms. Korf will distribute the meeting packet to Task Force members well in advance of the June 20th meeting in order to prepare all members for a working session.

Mr. Jacobson suggested that the option of using developers' funds for performance space should be considered, noting that this might be a way for existing developments that owe artwork to the City to correct their situation.

Councilwoman Drake opined that when the Task Force's work is presented in a public forum, a comprehensive summation of what the Task Force has done, its schedule, and the broader scope of the recommendations should be addressed. Ms. Bronski suggested presenting the Task Force's work at a City Council study session. Co-Chairman Hayslip opined that the process has been deliberative and worthwhile.

#### **4. Future Meetings**

##### **UPCOMING MEETINGS**

The next meeting of the Task Force is scheduled for June 20, 2006. The September date of the subsequent meeting will be set at the June 20 meeting.

##### **PUBLIC COMMENTS**

None.

##### **ADJOURNMENT**

With no further business to discuss, being duly moved and seconded, the meeting adjourned at 1:00 p.m.

Respectfully submitted,  
A/V Tronics, Inc.